

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Mark Hagerman,

Plaintiff,

v.

Cornutt, et al.,

Defendants.

Case No. 2:23-cv-00491-APG-DJA

Order

Before the Court is Plaintiff Mark Hagerman's motion for appointment of counsel. (ECF No. 33). The Court finds that Plaintiff has not demonstrated exceptional circumstances. It thus denies his motion.

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Under 28 U.S.C. § 1915(e)(1), "[t]he court may request an attorney to represent any person unable to afford counsel." However, the court will appoint counsel for indigent civil litigants only in "exceptional circumstances." *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). "When determining whether 'exceptional circumstances' exist, a court must consider 'the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.'" *Id.* "Neither of these considerations is dispositive and instead must be viewed together." *Id.*

The Court denies Plaintiff's motion because it does not find that he has demonstrated exceptional circumstances. Although Plaintiff explains that he has had difficulty accessing legal resources due to a lockdown at the prison for three weeks and is suffering from mental health issues, he describes circumstances that many indigent inmate litigants face. Additionally, the case is at the very early stages, with Defendants having recently answered the complaint, so it is

unclear at this stage whether Plaintiff has a likelihood of success on the merits. Finally, thus far, Plaintiff has demonstrated an ability to articulate his claims *pro se*.

ORDER

IT IS THEREFORE ORDERED that Plaintiff's motion for appointment of counsel (ECF No. 33) is **denied**.

DATED: February 26, 2024



DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE